

### **REMARKS**

Reconsideration is respectfully requested.

Claims 1-3 and 6-26 are pending. Because claims 12-22 have been withdrawn from consideration, only claims 1-3, 6-11, and 23-26 are at issue.

#### ***Claim Rejections under 35 U.S.C. § 103(a)***

Claims 1-3, 6-11, and 23-26 have been rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2004/0186163 ("Bischoff") in view of U.S. Patent No. 7,173,037 ("Alonso-Alija").

The present application claims priority of German Application No. 103 51 903.3, filed November 6, 2003, a certified copy of which was submitted during the international stage. An English translation of the priority document will be submitted in due course. Bischoff published September 23, 2004, as the publication of U.S. Application No. 10/486,620, having an earliest effective U.S. filing date of August 5, 2002. Because its publication is later than the priority date of the present application, Bischoff is only available, if at all, as prior art under 35 U.S.C. § 102(e).

However, the present application (U.S. Application No. 10/578,412) and Bischoff (U.S. Application No. 10/486,620) were commonly owned by Bayer Healthcare AG at the time the invention of the present application was made. Therefore, Bischoff is disqualified as prior art in a rejection under 35 U.S.C. § 103(a). *See* 35 U.S.C. § 103(c). Withdrawal of the rejection is respectfully requested.

#### ***Rejoinder of Withdrawn Claims***

Claims 12-22 have been withdrawn from consideration as being directed to nonelected subject matter. Each of the withdrawn process or method claims depends from or otherwise requires all of the limitations of an allowable product claim. Rejoinder of the withdrawn claims is respectfully requested.

### **CONCLUSION**

The application is believed to be in condition for allowance. If a telephone conference with Applicant's representative would be helpful in expediting prosecution of the application, Applicant invites the Examiner to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

Electronic signature:

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